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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/679,197
Filing Date: October 02, 2003
Appellant(s): BOSSEMEYER ET AL.

Kent E. Genin
For Appellant

MAILED
JAN 29 2007
GROUP 2800

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/20/06 appealing from the Office action mailed 01/12/06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,349,096	Liu et al.	2-2002
6,130,893	Whittaker et al.	10-2000
6,453,022	Weinman, Jr.	9-2002
5,930,250	Klok et al.	7-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

1. Whether claims 12-19 and 21-27 are unpatentable under 35 U.S.C. §103(a) in view of the combination of Liu et al. (US 6,349,096), Whittaker et al. (US 6,130,893) and Weinman, Jr. (US 6,453,022).

2. Whether claims 28-41 are unpatentable under 35 U.S.C. §103(a) in view of the combination of Liu et al. (US 6,349,096), Whittaker et al. (US 6,130,893) and Klok et al. (US 5,930,250).

3. Whether claim 20 is unpatentable under 35 U.S.C. §103(a) in view of the combination of Liu et al. (US 6,349,096), Whittaker et al. (US 6,130,893), Weinman, Jr. (US 6,453,022) and Klok et al. (US 5,930,250).

4. Whether claim 42 is unpatentable under 35 U.S.C. §103(a) in view of the combination of Liu et al. (US 6,349,096) and Whittaker et al. (US 6,130,893).

The rejections are hereby reproduced for convenience.

Claim Rejections - 35 USC § 103

1. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al. in view of Whittaker et al.

Liu discloses, in Fig. 2, a wide area communications network, comprising:

a CPE/ISP 230 (claimed a first subscriber location and a first network interface device attached to the first subscriber location); a DSL 225 (claimed a first DSL in communication with the first subscriber location via the first network interface device); ITE DSLAM 240 (claimed a first DSLAM connected to the first DSL); a CPE/ISP 231 (claimed a second subscriber location and a second network interface device); a DSL 225' (claimed a second DSL in communication with the second subscriber location via the second network interface device); and an ITE DSLAM 240' (claimed a second digital subscriber line access multiplexer connected to the second DSL).

Further, Liu discloses that users can decide the rate and ask for connection via either the current digital PSTN packet-based WAN interconnection, or virtual permanent DCS connection.

However, Liu does not expressly disclose the first and second subscriber location in communication via at least **one derived digital telephone voice channel** carried over an Internet connection and by the first and second digital subscriber lines.

Whittaker teaches, in Figs. 1-3, that home-based LAN 10 operating in conjunction with the ADSL standard comprises an Access Loop 12 connecting a POTS splitter 11 to a data network 88 (**claimed an Internet connection**). The POTS splitter is connected to the ATU-R 24. The ATU-R is connected to a LAN backbone 26 (which comprises computers 32a-c, and a packet-based telephone 31 (**IP telephone**)).

It would have been obvious to one ordinary skill in the art at the time of the invention was made to use Internet for voice communication, as taught by Whittaker, in the packet-based WAN of Liu in order to lower the overall cost of transmissions. One of ordinary skill in the art would have been motivated to do this because it provides a flexible and efficient access and setup process for permitting DSL users to configure and control an end-to-end connection path via either the digital PSTN or WAN.

2. Claims 12-19 and 21-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al. (US 6,349,096) in view of Whittaker et al. (US 6,130,893) and Weinman, Jr. (US 6,453,022).

Regarding claim 12, Liu discloses, in Fig. 2, a wide area communications network, comprising:

a CPE/ISP 230 (claimed a first subscriber location and a first network interface device attached to the first subscriber location); a DSL 225 (claimed a first DSL in communication with the first subscriber location via the first network interface device); ITE DSLAM 240 (claimed a first DSLAM connected to the first DSL); a CPE/ISP 231 (claimed a second subscriber location and a second network interface device); a DSL 225' (claimed a second DSL in communication with the second subscriber location via the second network interface device); an ITE DSLAM 240' (claimed a second digital subscriber line access multiplexer connected to the second DSL). As shown in Fig. 2, the first (CPE 230) and second (CPE 231) subscriber locations in communication via the first (225) and second (225') digital subscriber lines and by a public switched telephone network (digital PSTN) connecting the first digital subscriber line access multiplexer (240) to the second digital subscriber line access multiplexer (240). Further, in Fig. 2, the first CPE 230 is connected to **WAN, Modem, Factional T1/E1**.

However, Liu does not expressly disclose the first and second subscriber locations in communication via **at least one derived digital telephone voice channel** and wherein a subscriber unit at the first subscriber location is configured **to select one of a plurality of derived digital voice channels** for a voice communication to the second subscriber location.

Whittaker teaches, in Figs. 1-3, that home-based LAN 10 operating in conjunction with the ADSL standard comprises an Access Loop 12 connecting a POTS splitter 11 to a network 16. The POTS splitter is connected to the ATU-R 24. The ATU-R is connected to a LAN backbone 26 (which comprises computers 32a-c, terminal adapter 20a-b (which are connected to POTS line 25 and analog telephones 30a-b) and **a packet-based telephone 31 ((IP telephone)** converting analog voice to digital packet stream for transmission over LAN backbone 26) **voice is transmitted over a packetized data path (LAN backbone 26))**). The terminal adapter connects an analog telephone handset to **a digital transmission medium** (packet data line), which is adapted to create a new telephone line on demand (using LAN backbone 26, the user **can place a voice call using a telephone line derived from the digital line**). Further, Fig. 2 shows that data packets from a digital telephone appliance 84 to a particular telephone appliance on the home-based LAN are switched through the PSTN to the voice over ADSL gateway 86.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Liu's system to incorporate the first and second subscriber locations in communication via at least one derived digital telephone voice channel as taught by Whittaker. One of ordinary skill in the art would have been motivated to do this because it would provide additional telephone lines to an existing premise using a digital transmission medium with out the installation of new cabling (column 1, lines 55-66).

Liu discloses end users CPE (home based LAN). Whittaker discloses home based LAN (a packet-based telephone 31 (IP telephone) can place a voice call using a telephone line derived from the digital line). However, Liu in view of Whittaker does not expressly disclose the subscriber unit is configured to select one of a plurality of derived digital voice channels.

Weinman teaches that the user may select a particular telephone line from which to place a call or a particular line to answer an incoming call (column 7, lines 10-30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add multi line telephone system disclosed by Weinman, to the home based LAN of Liu in view of Whittaker. One of ordinary skill in the art would have been motivated to do this because multi line telephone system would provide multiple party calling and more particularly to a multi-line calling telephone system capable of selectively controlling the interconnectivity and audio characteristics of each individual active telephone line (column 1, lines 10-15).

Regarding claim 13, Liu discloses the system further including a first ISP (230) connected to an ATM network (260) and a second ISP connected (231) to the ATM network (260), wherein the ATM network (260) is in communication with both the first digital subscriber line access multiplexer (240) and the second digital subscriber line access multiplexer (240).

Regarding claims 14-16 and 21-27, Liu discloses all the claim limitations as stated above. Liu discloses end users CPE. Further, Liu suggests that the invention provides a smooth migration for all current modem, ISDN, and LAN users (column 5, lines 56-57).

However, Liu does not specifically disclose the following: a) subscriber location includes a local area network (as in claims 14 and 16); and b) the local area network includes a first telephone system; a facsimile machine and connects to the subscriber unit, which is capable of receiving and sending a digitized facsimile transmission (as in claims 15, and 21-27).

Regarding claims 14 and 16, Whittaker teaches a home base LAN 10 operating in conjunction with the ADSL standard comprises an Access Loop 12 connecting a POTS splitter 11 to a network 16 (see fig. 1)

It would have been obvious to one ordinary skill in the art at the time of the invention was made to add a local area network, such as that suggested by Whittaker, in the CPE of Liu in order to have a system that links together different office equipment and forms a network within an office or a building.

Regarding claims 15 and 21-27, Whittaker teaches that the LAN backbone 26 is connected to computers, packet-based telephones and telephone appliances (connected to terminal Adapters 20a-b for converting an analog telephone signal into a digital telephone signal). (see fig. 1).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to add a facsimile machine and connects to the subscriber unit, such as that suggested by Whittaker, in the CPE of Liu in order to meet specific needs.

Regarding claims 17-19, Liu discloses, in Fig. 3, a PCM bank 242 that convert analog telephone signal into a digital telephone; and a DSL Bank/Dialing Logic circuit 243 that converts DSL signals to digital data signals that can be routed to the various data paths. This circuit provides the necessary processing during call setup and tear down (dialing up the destinations current modem use via either the PSTN or WAN, or setting up a virtual circuit via the WAN).

However, Liu does not discloses wherein the first local area network includes a telephone attached to the subscriber unit, the subscriber unit converting an analog telephone signal into a digital telephone signal.

Whittaker discloses home based LAN (with telephones 30a-b (connected to terminal Adapters 20a-b for converting an analog telephone signal into a digital telephone signal).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add converter for converting an analog telephone signal into a digital telephone signal, such as that suggested by Whittaker, to the subscriber unit of Liu. One of ordinary skill in the art would have been motivated to do this because it would provide additional telephone lines to an existing premise using a digital transmission medium with out the installation of new cabling (column 1, lines 55-66).

3. Claims 28-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al. in view of Whittaker and Klok et al. (5,930,250).

Regarding claims 28-36 and 39-41, Liu discloses, in Figs. 2 and 3, a wide area communications network, comprising: a CPE/ISP 230 (claimed a first subscriber location and a first network interface device attached to the first subscriber location); a DSL 225 (claimed a first DSL in communication with the first subscriber location via the first network interface device); ITE DSLAM 240 (claimed a first DSLAM connected to the first DSL, and separating a first DSL channel from a first telephony channel); digital PSTN (claimed a PSTN connected to the first telephony channel); a WAN 260 (claimed an ATM network connected to the first DSL channel) ITE DSLAM 240 (claimed a second DSLAM connected to the ATM network by a second DSL channel and connected to the PSTN by a second telephony channel); a DSL 225' (claimed a second DSL connected to the second DSLAM); a CPE/ISP 231 (claimed a second subscriber location having a second network interface device connected to the second DSL).

However, Liu does not specifically disclose a first hybrid circuit communicating a voice telephone call from a first telephone in communication with a second telephone in the second telephone system, wherein a first hybrid circuit has a first portion comprising a virtual circuit and a second portion comprising a switched circuit.

Whittaker teaches, in Figs. 1-3, that home-based LAN 10 operating in conjunction with the ADSL standard comprises an Access Loop 12 connecting a POTS splitter 11 to a network 16. The POTS splitter is connected to the ATU-R 24. The ATU-R is connected to a LAN backbone 26 (which comprises computers 32a-c, terminal adapter 20a-b (which are connected to POTS line 25 and analog telephones 30a-b) and a packet-based telephone 31 ((IP telephone) voice is transmitted over a packetized data path (LAN backbone 26))). The terminal adapter connects an analog telephone handset to **a digital transmission medium** (packet data line), which is adapted to create a new telephone line on demand.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Liu's system to incorporate a first hybrid circuit is configured to communicate a voice telephone call over both a virtual circuit and switched circuit as taught by Whittaker. One of ordinary skill in the art would have been motivated to do this because it would provide a lifeline for the telephone appliance on a power-off condition and it would enable the user to add additional lines without additional wiring into premise. (See abstract and column 1, lines 55-66; column 4, lines 39-42).

Further, Liu does not specifically disclose that the subscriber location includes a local area network (as in claims 28, 33, 34, 40 and 41).

Whittaker teaches a home base LAN 10 operating in conjunction with the ADSL standard comprises an Access Loop 12 connecting a POTS splitter 11 to a network 16 (see fig. 1)

It would have been obvious to one ordinary skill in the art at the time of the invention was made to add a local area network, such as that suggested by Whittaker, in the CPE of Liu in order to have a system that links together different office equipment and forms a network within an office or a building.

Further, Liu in view of Whittaker does not expressly disclose an IWU that is connected to the first DSLAM and to the public switched telephone network (as in claims 20, 28, 35, 36 and 39). However, IWU is a well-known device for bridging or interfacing one communication format with another.

Klok disclose, in Fig. 1, a device 108 for receiving and routing data packets from a non-packet switching network PSTN.

It would have been obvious to one ordinary skill in the art at the time of the invention was made to add an IWU, such as that suggested by Klok, in the communication system of Liu in view of Whittaker in order to mediate communication between different protocols within different system and to provide conversion between a packet data format and a circuit switch data format.

Regarding claims 37 and 38, Liu discloses all the claim limitations as stated above, except for the local area network includes a facsimile machine and connects to the subscriber unit, which is capable of receiving and sending a digitized facsimile transmission.

Whittaker teaches that the LAN backbone 26 is connected to computers, packet-based telephones and telephone appliances (which is connected to terminal Adapters 20a-b for converting an analog telephone signal into a digital telephone signal) (see fig. 1).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to add a facsimile machine and connects to the subscriber unit, such as that suggested by Whittaker, in the CPE of Liu in order to meet specific needs

4. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Liu et al. in view of Whittaker et al and Weinman, Jr. as applied to claim 12 above, and further in view of Klok et al.

Liu in view of Whittaker and Weinman discloses all the claim limitations as stated above, except for the telephone virtual circuit terminates at an interworking unit. However, IWU is a well-known device for bridging or interfacing one communication format with another.

Klok disclose, in Fig. 1, a device 108 for receiving and routing data packets from a non-packet switching network PSTN.

It would have been obvious to one ordinary skill in the art at the time of the invention was made to add an IWU, such as that suggested by Klok, in the communication system of Liu in view of Whittaker and Weinman in order to mediate communication between different protocols within different system and to provide conversion between a packet data format and a circuit switch data format.

(10) Response to Argument

Regarding claim 12, Appellants argue (Remarks, page 5) *that Liu et al. lacks a derived digital voice channel for a voice call carved out of, or derived from the packet data line. Further, Appellants argue Liu lacks any teaching or suggestion of a derived digital voice channel or subscriber units that can select a voice channel from among derived digital voice channels.* Examiner respectfully disagrees with Appellants contention. As Appellants indicated in the Remarks, on page 5, in the 4th paragraph, Liu et al. discloses a digital subscriber loop access and end-to-end data and analog voice connection system. As shown in fig. 2, subscriber locations include digital subscriber line interface units 230-233 connected to a **digital subscriber line 225** respectively. As shown in fig. 3, **DSL data** can be route via either the PSTN 250 or WAN 260 (see fig. 3, blocks 243-245-250; or 243-245-248-260). Whittaker et al. assists a digital data network 26 (home-based LAN backbone 26) that is connected with **a packet based telephone 31**-computer 32a-c. Using home-based LAN backbone 26 (***a digital data network 26)*** the **subscribers 31** can place voice call using a ***telephone line derived from the digital line (see fig. 1, a home base LAN 10).***

Appellants, further, argue (Remarks, page 6, paragraph 1) that the *claimed feature of subscriber unit configured to select one of a plurality of derived digital voice channels for a voice communication to the second subscriber location is entirely missing from the combination proposed by the Examiner. Further, Appellant argues that Weinman, Jr. teaches a general multi-*

line phone with mixing and audio control. Weinman, Jr. fails to teach or suggest a derived digital telephone voice channel or accessing a derived digital telephone voice channel. It is respectfully submitted that the rejection is based on the combined teaching of Liu et al. in view of Whittaker et al. and *Weinman, Jr.* As discussed above and as shown in fig. 2, Liu et al. discloses subscriber locations include digital subscriber line interface units 230-233 connected to a **digital subscriber line** 225 respectively. Whittaker et al. teaches end-users such as the packet based **Internet digital telephone** and computer terminals are connected to LAN backbone 26, LAN 26 is connected with **ADSL.** Using home-based LAN backbone 26 (***a digital data network 26)*** the **subscribers 31** (Internet telephone) can place **voice call** using a ***telephone line derived from the digital line.*** *Weinman, Jr.* teaches a user may select a particular telephone line from which to place or a particular line to answer an incoming call.

Still on page 6, Appellants argue *that Whittaker et al. flails to teach or disclose a subscriber unit configured to be able to choose among one of a plurality of derived digital voice channel*. It is respectfully submitted that the rejection is based on the combined teaching of Liu at al. in view of Whittaker et al. and *Weinman, Jr.*. As stated above, Whittaker et al. clearly teaches accessing a derived digital telephone voice channel and *Weinman, Jr.* teaches a concept of selecting (choosing) a particular telephone line from which to place or a particular line to answer an incoming call.

Still on page 6, Appellants argue that *there is no motivation to combine these three references*. Examiner respectfully disagrees. Liu et al. discloses, in fig. 2, that subscriber locations **(LAN user)** include digital subscriber line interface units 230-233 connected to a digital subscriber line 225 respectively. Fig. 3 shows that **DSL data** can be route via either the

PSTN 250 or WAN 260. **Whittaker et al**. teaches end-users such as the packet based **digital telephone** and computer terminals are connected to LAN backbone 26, LAN 26 is connected with **ADSL**. In addition, the packet based telephone 31, which may be **an IP based telephone** is connected to LAN 26. This means that subscriber 31 can be identified based on particular IP address and an **Internet connection carrying voice information**. **Weinman, Jr.** teaches a concept of selecting (choosing) a particular telephone line. Therefore, Whittaker's home base LAN and **Weinman, Jr.**'s method of line selection can substitute Liu's subscriber location *(which is connected to a* ***digital subscriber line*** *225 and where a subscriber unit can transmit data (DSL traffic via PSTN or WAN)* in order to provide communication between the first and second subscriber locations via a selected derived digital telephone voice channel carried over an Internet connection and by the first and second digital subscriber lines.

Regarding claim 28, *Appellants argue (Remarks, page 7) that the combination of Liu et al., Whittaker et al. and Klok et al. do not disclose first hybrid circuit for voice telephone calls in combination with the other features of claim 28.* The Examiner respectfully disagrees. As stated above, Liu et al. discloses an end-to-end data link connection. A **DSL** rout can be set up to include one or more DSL routes, including PSTN, WAN and DCS. A remote user at CPE 230 calls a central office site over **its DSL 225**, initiating a DSL connection (packet switched path). As shown in Fig. 3, Access Select circuit 244, based on the signaling exchanged with remote site 230, controls Access Router 245 and determines how the **DSL signal** will be routed (for example, routing the data via PSTN or WAN). Whittaker et al. assists in (fig. 1) home-based LAN 10 operating in conjunction with the ADSL standard that comprises a LAN backbone 26 (*which includes a packet-based telephone 31 ((IP telephone) voice is transmitted over a* *packetized data path*)). LAN 26 is connected to Access Loop 12. Whittaker et al. also teaches, in Fig. 2, Access Loop 12 is connected to Network 16, which comprises MUX 92, 90 connected to V/ADSL G/W 86, Data Network 88, PSTN 80, and analog and digital telephone appliances 82, 84. The Examiner believes that the call between the packet-based telephone 31 and telephone appliances 82, 84 is a first hybrid circuit for voice telephone call.

Appellants, further, argue that *Liu and Whittaker relate to completely different systems (high bit rate vs. low bit rate) and disclose completely different goals and motivations*. Examiner respectfully disagrees with Appellants conclusion. As stated above, Liu et al. discloses a DSLM architecture combined with DSL connection that provides both high bit rate and low bit rate data routes (column 8, lines 5-31). Further Whittaker et al. assists that ***packet based telephone*** is connected to PSTN or WAN via LAN backbone 26 and ADSL standard (which allows high-speed digital communication).

On page 8, Appellant argues *that although Klok et al. discloses a generic IWU for permitting packetized data over a PSTN, fails to make up for the deficiencies of Liu et al. and Whittaker et al. regarding digital telephone voice channels or a hybrid circuit carrying a voice channel as claimed*. Examiner respectfully disagrees. As discloses above, Liu et al. in view of Whittaker et al. does teach this feature.

Referring to the arguments (Ground 3) about dependent claim 20, these arguments are similar to the arguments presented above; the examiner takes the same position as discussed for claim 12.

Regarding claim 42, Appellants argue (Remarks, page 9) that "*Appellants agree with the Examiner that Liu et al. is lacking at least a teaching of an Internet connection carrying voice* *information. Whittaker et al. fails to make up for the deficiencies in Liu et al. Specifically, Appellant submits that Liu et al., with its express segregation of voice connectivity from high bit rate data communications, and Whittaker et al., with its focus on low cost digital voice lines that are inherently lower bit rate connections, are not properly combinable.*" Examiner respectfully disagrees with Appellants assertion. Liu et al. discloses that an interface circuit receives voice and data route request signals **from DSL** coupled to the user's device at the origination site. Whittaker et al. assists that ***packet based telephone (31)*** is connected to WAN via LAN backbone 26 and **ADSL standard** (which allows high-speed digital communication). Whittaker et al. clearly shows **Internet connection carrying voice information**. Since both Liu et al. and Whittaker et al. use a high-speed digital communication, one of ordinary skill would be motivated to combine the Internet connection carrying voice information of Whittaker et al. with the DSL data transfer mechanisms in Liu et al.

Appellants, further, argue *that rout selection in Liu et al. teaches away from a combination with Whittaker et al. because aside from the clear separation of voice communication from data communication in Liu et al., one of ordinary skill would not want to add complexity and delay to a typical lower bandwidth digital telephone call by inserting additional routing decisions*. Examiner respectfully disagrees with Appellants conclusion. As stated above, both Liu et al. and Whittaker et al. discloses a high-speed digit communication, therefore, the rejection is proper.

On page, 10, Appellants argue the same arguments presented above, the Examiner takes the same position as discussed for claim 42.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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